

Atty. Docket No. 696.005

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DEC 21 2006

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. On October 13, 2006, Applicants' counsel and one of the inventors, Kannan Srinivasan, conducted a telephone interview with the Examiner in which the present application and the outstanding rejections were discussed. No agreement, however, was reached with respect to the claims of the present application.

In the Office Action dated June 21, 2006, Claims 1-13 were pending. Of these claims, Claims 1 and 13 are independent claims; the remaining claims are dependent claims. Claims 1 and 13 have been rewritten. Applicants intend no change in the scope of the claims by the changes made by these amendments. It should also be noted these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Claims 1-13 stand rejected under 35 USC § 103(a) as obvious over Herz et al. (hereinafter "Herz") in view of Dahm et al. (hereinafter "Dahm"). Specifically the Office asserted that "[i]t would have been obvious ... implement Dahm's defunct threshold in Herz's customized price and promotion system. One would be motivated to set up a

threshold value as taught in Dahm in order to predict a customer who is most likely to churn or discontinue the service, and provide a proper offer to retain such customers. It would be obvious to use Herz's profile attributes, such as the last interaction of the customer with the web site, and set a threshold value to determine the probability that the customer would become a defunct." Reconsideration and withdrawal of the present rejections are hereby respectfully requested.

A 35 USC 103(a) rejection requires that the combined cited references provide both the motivation to combine the references and an expectation of success. Not only is there no motivation to combine the references, no expectation of success, but actually combining the references would not produce the claimed invention. Thus, the claimed invention is patentable over the combined references and the state of the art.

The present invention broadly contemplates enabling Internet businesses to utilize Internet transaction information to conduct real-time online experiments on a sample of transactions and determine marketplace sensitivities. (Page 6, paragraph 0024, lines 1-4) The results of these experiments are analyzed to reveal optimal values of key market decision variables. (Page 6, paragraph 0024, lines 4-6) These experiments are further used to determine profit potential of various promotions. The instant invention offers these promotions to online shoppers as an incentive to maintain a shopping relationship with online retailers and prevent an online shopper from becoming defunct. The operator determines whether to maximize customer retention or profit, and thus sets a permissible threshold over which the loss of customers is unacceptably high. The operator then offers potential promotions to customers which exceed these thresholds.

As best understood, the invention set forth by Herz contemplates a system with the ability to automatically determine which products a shopper would be most likely to buy, and which offers a vendor should make available to the shopper in order to maximize the vendor's profit. (Paragraph 0002, lines 1-5) The system constructs and updates shopper profiles based on specific demographic information and history of their shopping behavior. (Paragraph 0002, lines 5-9) These profiles are used to determine products and offers to present to shoppers. (Paragraph 0002, lines 9-13)

The outstanding Office Action takes the position that Herz teaches providing a promotion to the customer based on customer behavior. However, there is no teaching or suggestion that these promotions offered to the customer by Herz are based on real-time learning from promotional experimentation of various promotions offered to various consumers. It is respectfully submitted that Herz et al. clearly falls short of teaching certain attributes of the present invention (as defined by the independent claims) in that, *inter alia*, it does not disclose specifying a range of offers to be included in a set of promotions wherein the offers include optimal advertisements determined from real time learning from dynamic analyses of promotional experimentation. Further, the Examiner agrees that Herz does not teach specifying a permissible defunct threshold, or any consequent utilization of a threshold. Additionally, it should be obvious that Herz does not teach a threshold that is dependent upon an operator's choice of which economic value to maximize.

As best understood, the invention set forth by Dahm contemplates providing subscriber loyalty and retention techniques that allow mobile telephone subscribers who

have been identified as likely candidates to discontinue service and switch to another provider to efficiently review an offer for a mobile service plan that better meets subscriber needs. (Column 2, lines 20-25) Dahm uses billing records and/or demographic information to identify subscribers that may be likely candidates to switch providers. (Column 2, lines 33-35) The billing records and demographic information is compared with predetermined threshold values and a churn susceptibility index is determined. If this index exceeds another set value, the subscriber is identified as susceptible. As can be seen, there is no teaching or suggestion that this second threshold, or any threshold utilized in determining susceptible subscribers, is dependent upon an operator's choice of economic variable to maximize.

The instantly claimed invention requires specifically "specifying a permissible defunct threshold; specifying a range of offers to be included in a set of promotions wherein the offers include optimal advertisements determined from real time learning from dynamic analyses of promotional experimentation; determining a probability that a customer will become defunct after a predetermined period of time has occurred since the last interaction of that customer with the web site; and providing a promotion selected from the set of promotions to a customer if the probability that the customer will become defunct after the predetermined period of time has occurred since the last interaction of that customer with the web site is greater than the permissible defunct threshold; wherein the threshold is dependent upon an operator's choice of which economic value to maximize." (Claim 1; other independent claims have similar language).

Neither Herz nor Dahm, nor the combination of the two, teaches a threshold wherein the threshold is dependent upon an operator's choice of which economic value to maximize. In actuality, the combination of Herz and Dahm teach away from such a threshold, and even combination in general. Specifically, Dahm wants to utilize protocols and computing that are optimized for use in thin devices. However, Herz is a system that is meant to be utilized on normal devices such as desktop computers, rather than wireless. Thus Herz teaches away from combination with Dahm.

A 35 USC 103(a) rejection requires that the combined cited references provide both the motivation to combine the references and an expectation of success. Not only is there no motivation to combine the references, no expectation of success, but actually combining the references would not produce the claimed invention. Thus, the claimed invention is patentable over the combined references and the state of the art.

In view of the foregoing, it is respectfully submitted that independent Claims 1 and 13 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claim 1, it is thus also submitted that Claims 2-12 are also allowable at this juncture.

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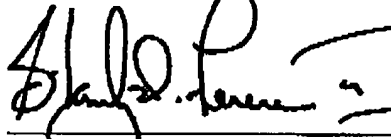
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In summary, it is respectfully submitted that the instant application, including Claims 1-13, are presently in condition for allowance. Notice to the effect is hereby earnestly solicited. Applicants' undersigned attorney would welcome further discussion with the Office in the event there are any further issues in this application.

Respectfully submitted,



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